

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1149

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1149

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1149

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 1-12-05

Tape Number	Side A	Side B	Meter #
1	x		36.3-end
1		x	0-27.6
2		x	45.-end
3	x		0.-9.2

Committee Clerk Signature

Jody Renske

Minutes:

Chairman Keiser: Opened the hearing on HB 1149. All committee members were present.

Linda Fisher, Unclaimed Property Administrator, ND. State Land Department: Appeared in support of HB 1149 and provided written testimony (SEE ATTACHED TESTIMONY).

Gary Prezler, ND State Land Dept.: I'm here in support of HB 1149. If you think it is hard to file a claim, your not really thinking about it with a criminal mind. All we are asking is the dollar amount being taken out, the finders can still go out there, they just wouldn't know how big the unclaimed property is which reduces the possibility of fraud.

Representative Dietrich: What amount has been paid out in the past 2 years?

Linda Fisher: We give out about 1 1/2 million dollars a year, about 3 million dollars biennium. ND has over a 50% return rate.

Kelly Schmidt, ND State Treasurer: Appeared in support of HB 1149. I just want the committee to be aware that fraud is alive and well in ND.

Jack McDonald, ND Broadcasters Association: I oppose part of HB 1149, and provided written testimony (SEE ATTACHED TESTIMONY). We object to the last part of the bill, on page 2 subsection 3, we wanted to have the record to be left opened now with this bill it says that they will be closed for ever.

Representative Froseth: I move to adopt amendments by Jack McDonald.

Representative Dietrich: Second the motion to adopt amendments.

Representative Kasper: If we pass this amendment what does this do to the dollar amounts, would they still not be disclosed or does that opened the meeting on it up?

Representative Keiser: We are going to have to get clarification on that, clearly we have 2 lists at the end of 24 months the dollars become available, I am assuming that with the proposed amendments at the end of 2 years the dollar amounts become public domain information again. I support the amendment and without this amendment I'll oppose the bill only because we are setting a terrible precedent on the records law and we keep creeping into that.

Motion carries. **VOTE: 9-YES 5-NO 0-Absent.**

Representative N. Johnson: I move a **DO PASS AS AMENDED.**

Representative Thorpe: Second the **DO PASS AS AMENDED** motion.

Motion carries. **VOTE: 11-YES 3-No 0-Absent.**

Motion carries.

Representative Ruby: will carry the bill to the floor.

FISCAL NOTE
Requested by Legislative Council
01/03/2005

Bill/Resolution No.: HB 1149

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues		\$0		\$0		\$0
Expenditures		\$0		\$0		\$0
Appropriations		\$0		\$0		\$0

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

There is no fiscal impact from the changes.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

None.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

None.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

None.

Name:	Keith Bayley	Agency:	Land Dept.
Phone Number:	328-1912	Date Prepared:	01/03/2005

January 12, 2005

JK
1/12/05

HOUSE . AMENDMENTS TO HOUSE BILL NO. 1149 IBL 1-13-05

Page 2, line 7, remove the overstrike over "not public records"

Page 2, remove the overstrike over line 8

Page 2, line 9, remove the overstrike over "payment or delivery is made" and remove "exempt
from the open records law under section"

Page 2, remove lines 10 and 11

Page 2, line 12, remove "law under section 44-04-18"

Renumber accordingly

Date: 1-12-05

Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1149

House

INDUSTRY, BUSINESS AND LABOR

Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Adopt Amendments

Motion Made By

Rep. Froseth

Seconded By

Rep. Dietrich

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman	X	
N. Johnson-Vice Chairman		X	Rep. T. Boe	X	
Rep. D. Clark	X		Rep. M. Ekstrom		X
Rep. D. Dietrich	X		Rep. E. Thorpe		X
Rep. M. Dosch		X			
Rep. G. Froseth	X				
Rep. J. Kasper	X				
Rep. D. Nottestad	X				
Rep. D. Ruby		X			
Rep. D. Vigesaa	X				

Total (Yes)

9

No

5

Absent

-0-

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Date: 1-12-05

Roll Call Vote #: 2

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1149

House

INDUSTRY, BUSINESS AND LABOR

Committee

Check here for Conference Committee

Legislative Council Amendment Number 58224.0101 .0200

Action Taken Do Pass As Amended

Motion Made By Rep. Johnson Seconded By Rep. Thorpe

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	Y		Rep. B. Amerman	X	
N. Johnson-Vice Chairman	Y		Rep. T. Boe		X
Rep. D. Clark	Y		Rep. M. Ekstrom	X	
Rep. D. Dietrich	X		Rep. E. Thorpe	X	
Rep. M. Dosch	X				
Rep. G. Froseth		X			
Rep. J. Kasper		b			
Rep. D. Nottestad	Y				
Rep. D. Ruby	X				
Rep. D. Vigesaa	X				

Total (Yes) 11 No 3

Absent 0-

Floor Assignment Rep. Ruby

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1149: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1149 was placed
on the Sixth order on the calendar.

Page 2, line 7, remove the overstrike over "not public records"

Page 2, remove the overstrike over line 8

Page 2, line 9, remove the overstrike over "payment or delivery is made" and remove "exempt
from the open records law under section"

Page 2, remove lines 10 and 11

Page 2, line 12, remove "law under section 44-04-18"

Renumber accordingly

2005 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1149

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1149

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date March 9, 2005

Tape Number	Side A	Side B	Meter #
1	X		2,100-3375

Committee Clerk Signature



Minutes:

Chairman Mutch opened the hearing on HB 1149. All Senators were present.

Linda Fischer with the State Land Department, appeared before the committee in support of the bill. See written testimony.

Senator Espegaard- So, you sell the list?

Linda- Yes. Its ok to sell it, to cover our costs in putting it together.

Senator Nething- Why would anyone want to buy it?

Linda- People want to buy the list because some people, known as land finders make a business out of it. They know how much property people have and what the value of it is.

This legislation was introduced in the last session, the Senate passed it unanimously, and the House failed it. This year it passed, the House, and we are hopeful it will pass the Senate.

Senator Espegaard- Do you get much money from selling these lists?

Page 2

Senate Industry, Business and Labor Committee

Bill/Resolution Number HB 1149

Hearing Date March 9, 2005

Linda- We don't sell very many of them, and they are \$150/list. The reason people are willing to pay for the list is to find out property values.

Senator Klein- So, you only sell 2 or 3 in a good year?

Linda- Yes.

Senator Espegaard- What exactly is on the list?

Linda- The list has the name of the person and last known address, along with the property value.

Chairman Mutch closed the hearing on HB 1149.

Action taken:

Senator Klein moved for a Do Pass recommendation for the engrossed HB 1149. Seconded by Senator Krebsbach. The vote was 7-0-0. Senator Espegaard is the carrier of the bill.

Date: 3-9-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1149

Senate Industry, Business, and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Klein

Seconded By Krebsbach

Senators	Yes	No	Senators	Yes	No
Chairman Mutch	X		Senator Fairfield	X	
Senator Klein	X		Senator Heitkamp	X	
Senator Krebsbach	X				
Senator Espegard	X				
Senator Nething	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Espegard

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 9, 2005 2:21 p.m.

Module No: SR-43-4549
Carrier: Espgaard
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1149, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1149 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1149

January 12, 2005

HOUSE INDUSTRY, BUSINESS & LABOR COMMITTEE
HB 1149

REPRESENTATIVE KEISER AND COMMITTEE MEMBERS:

My name is Jack McDonald. I am appearing today on behalf of the North Dakota Newspaper Association and the North Dakota Broadcasters Association. Last session the Legislature decided that certain unclaimed property records...the reports filed with the department...would be confidential until two years after the funds were paid out. We objected at the time, but at least the compromise made them open records after two years.

Now, this bill takes away even that two year waiting period and says the records are forever exempt, which means they are closed unless the department decides to make them open. Given the department's view of open records, I doubt if that will occur very often.

Under North Dakota law, there are three classifications of records: open, exempt or confidential. **Open records**, of course, are open and available to the public. **Exempt records** are not open automatically, but may be released at the discretion of the record custodian. **Confidential records** are closed, and any release is a criminal law violation.

HB 1149 at least makes the records exempt, rather than confidential, which is good. However, we believe the amendments proposed on page 2, lines 7 – 12, should be deleted and the law in that section be kept the same. The world won't come to an end with these records being open after two years and we don't see any reason why they shouldn't remain open. The public should be able to see who is making a claim to property being held by a public agency for public distribution. Therefore, we urge you to amend HB 1149 to delete the amendments in Subsection 3 on page 2.

If you have any questions, I'd be glad to try and answer them. Thank you for your time and consideration.

**TESTIMONY OF LINDA FISHER
UNCLAIMED PROPERTY ADMINISTRATOR
North Dakota State Land Department**

IN SUPPORT OF HOUSE BILL NO. 1149

**House Industry, Business and Labor Committee
January 12, 2005**

The Uniform Unclaimed Property Act (NDCC 47-30.1) exists in every state to act as a mechanism by which owners of unclaimed property can potentially be reunited with their lost or forgotten assets.

The Act requires that unclaimed assets be reported to the state by businesses across the globe which have dealings with North Dakota residents, and in turn the Unclaimed Property Administrator undertakes various means of notifying the general public regarding who specifically may be entitled to the property the State is holding.

Currently, several methods of notification exist, including:

- 1) Maintaining an in-house, no-charge web site where the public can search for property by name (or by city of last known address) and can start the claim process if they believe the property is theirs.
- 2) Participating with 21 other states in posting names on a comprehensive, no-charge website called *missingmoney.com* which is sponsored by the National Association of Unclaimed Property Administrators.
- 3) Publishing legal notices of names, and running generic unclaimed property advertisements in each official county newspaper.
- 4) Conducting television and radio interviews around the state to provide unclaimed property information to both claimants and holders.
- 5) Making presentations at various community and business functions.
- 6) Operating a public awareness booth at the various tradeshow and fairs across the State.
- 7) Doing direct mail notification to owners of security-related property.

In addition, NDCC 47-30.1-19.1 requires that the Administrator specifically publish two somewhat similar, but ultimately different property lists and make them available for sale to the public. These are the two lists at issue in today's discussion of House Bill 1149.

List One: Must contain a record all of the assets of \$50 or more currently in our custody. The information in this list statutorily must include the name and last-known address of owners and beneficiaries. It does not include the monetary value of the property.

List Two: Same as "List One", plus the property type, who reported it, and the property reported value. However, this list excludes property which has not been held in our custody for at least 24 months.

This legislation proposes to combine everything from the two lists, except for the property value.

We don't sell a lot of these lists (maybe 2 or 3 in a good year with the last one being sold in March of 2004), but we feel that implementing the proposed changes is extremely important because:

- 1) Even if we only sell one list a year, we don't know what happens to it once it leaves our office (i.e. who gets reproductions and what do THEY do with them) and,
- 2) Exempting the property values from the list (and the open records law) removes the temptation for unscrupulous individuals to "cherry pick" high value properties and file fraudulent claims for them.

The number of fraudulent claims attempted in unclaimed property offices across the nation are at an all time high, and right here in North Dakota in 2004 our office was the subject of an extremely elaborate plan by an individual masquerading as a bonafide New York Attorney to claim approximately \$14,000 that was published on one of our lists. We are uncertain as to how he attained it.

I don't need to tell any of the people in this room what a problem identity theft has become over the past decade, and with every technological advance, the problem seems to become more prevalent. Documentation required to prove ownership of unclaimed property is becoming increasingly easy to manufacture, and not surprisingly, we are aware of sites on the internet that encourage people to purchase complete identity kits, including social security cards, utility bills, drivers licenses, etc.

Each year we build more "protections" into our claim approval process, but we feel the answer does not lie in trying to keep a step ahead of the pranksters - we feel the answer lies in removing the temptation.

I wanted to mention that these proposed changes were part of SB 2152 that was before the fifty-eighth Legislative Assembly and failed to pass. I believe the concerns that were raised at that time regarding this specific issue were two-fold.

First, there seemed to be a concern that by combining the lists and exempting the dollar amounts we might be eliminating a business opportunity for finders ("finders" being individuals and companies that locate unclaimed property owners and contract with them for a portion of the property value). In response to that concern, remember I said earlier that in the past two years only a couple of lists have been sold. The last list to be sold to a North Dakota business was to a local private investigative firm in 2001 and to date not a single claim has been processed as a result of that sale. (We like to think we would know since unclaimed property law requires that finders submit a copy of the contract with the claim.)

Second, there was a concern that owners may miss an opportunity to be reunited with their property if finders are not actively making efforts to locate them. This may or may not be true. But what is true is that in 2004, we teamed up with *missingmoney.com* to reach an even larger audience of potential owners and provide them with an opportunity to be reunited with their property free of charge.

What is also true is that if we were to unknowingly pay out a fraudulent claim, the rightful owner may never know since the name would be removed from the searchable database upon approval of the claim and no one would be the wiser.

Considering that these proposed changes to the Unclaimed Property Act would go a long way in protecting the assets of current and previous North Dakota citizens and reducing the liability of the Common School Trust Fund, we respectfully request a "do pass" recommendation of HB 1149.

1707 North 9th Street
PO Box 5523
Bismarck, ND 58506-5523
Phone: (701) 328-2800
Fax: (701) 328-3650



www.land.state.nd.us
www.discovernd.com

Gary D. Preszler, Commissioner

**TESTIMONY OF LINDA FISHER
UNCLAIMED PROPERTY ADMINISTRATOR
North Dakota State Land Department**

IN SUPPORT OF ENGROSSED HOUSE BILL NO. 1149

**Senate Industry, Business, and Labor Committee
March 09, 2005**

The Uniform Unclaimed Property Act (NDCC 47-30.1) exists in every state to act as a mechanism by which owners of unclaimed property can potentially be reunited with their lost or forgotten assets.

The Act requires that unclaimed assets be reported to the state by businesses across the globe which have dealings with North Dakota residents, and in turn the Unclaimed Property Administrator undertakes various means of notifying the general public regarding who specifically may be entitled to the that property.

Currently, several methods of notification and outreach exist, including:

- 1) Maintaining an in-house, no-charge web site where the public can search for property by name (or by city of last known address) and can start the claim process if they believe the property is theirs.
- 2) Participating with 21 other states in posting names on a comprehensive, no-charge website called *missingmoney.com* which is sponsored by the National Association of Unclaimed Property Administrators.
- 3) Publishing legal notices of names, and running generic unclaimed property advertisements in each official county newspaper.
- 4) Conducting television and radio interviews around the state to provide unclaimed property information to both claimants and holders.
- 5) Making presentations at various community and business functions.
- 6) Operating a public awareness booth at the various tradeshow and fairs across the State.
- 7) Doing direct mail notification to owners of security-related property.

In addition, NDCC 47-30.1-19.1 requires that the Administrator specifically publish two somewhat similar, but ultimately different property lists and make them available for sale to the public. These are the two lists at issue in today's discussion of House Bill 1149.

List One: Must contain a record all of the assets of \$50 or more currently in our custody. The information in this list statutorily must include the name and last-known address of owners and beneficiaries. It does not include the monetary value of the property.

List Two: Same as "List One", plus the property type, who reported it, and the reported value. However, this list excludes property which has not been held in our custody for at least 24 months.

This legislation proposes to combine everything from the two lists, except for the property value.

We don't sell a lot of these lists (maybe 2 or 3 in a good year with the last one being sold in March of 2004), but we feel that implementing the proposed changes is extremely important because:

- 1) Even if we only sell one list a year, we don't know what happens to it once it leaves our office (i.e. who gets reproductions and what do THEY do with them) and,
- 2) Exempting the property values from the list (and the open records law) removes the temptation for unscrupulous individuals to "cherry pick" high value properties and file fraudulent claims for them.

The number of fraudulent claims filed in unclaimed property offices across the nation are at an all time high. Our North Dakota office is not exempt and in 2004 we were the subject of an extremely elaborate plan by an individual using the stolen identity of a New York Attorney to claim approximately \$14,000 that was published on one of our lists. We are uncertain as to how he attained it.

As you know, identity theft has become nearly epidemic over the past decade, and with every technological advance, the problem seems to become more prevalent. Documentation required to prove ownership of unclaimed property is becoming increasingly easy to manufacture, and not surprisingly, we are aware of sites on the internet that encourage people to purchase complete identity kits, including social security cards, utility bills, drivers licenses, etc.

Each year we build more "protections" into our claim approval process, but we feel the answer does not lie in trying to keep a step ahead of the pranksters - we are convinced the answer lies in removing the temptation.

I wanted to mention that these proposed changes were part of SB 2152 that was before the 58th Legislative Assembly. SB 2152 was passed unanimously by the Senate, but failed to pass in the House. I believe the concerns that were raised at that time regarding this specific issue were two-fold.

First, there seemed to be a concern that by combining the lists and exempting the dollar amounts we might be eliminating a business opportunity for finders ("finders" being individuals and companies that locate unclaimed property owners and contract with them for a portion of the property value). In response to that concern, remember I said earlier that in the past two years only a couple of lists have been sold. The last list to be sold to a North Dakota business was to a local private investigative firm in 2001. North Dakota statute requires Finders to include a copy of their contract with their claims, and to the best of our knowledge not a single claim has been processed as a result of that sale.

Second, there was a concern that owners may miss an opportunity to be reunited with their property if finders are not actively making efforts to locate them. This may or may not be true. But what is true is that in 2004, we teamed up with *missingmoney.com* to reach an even larger audience of potential owners and provide them with an opportunity to be reunited with their property free of charge.

What is also true is that if we were to unknowingly pay out a fraudulent claim, the rightful owner may never know since the name would be removed from the searchable database upon approval of the claim and no one would be the wiser.

Considering that these proposed changes to the Unclaimed Property Act would go a long way in protecting the assets of current and previous North Dakota citizens and reducing the liability of the Common School Trust Fund, we respectfully request a "do pass" recommendation of Engrossed HB 1149.